

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

**DECLARATION OF DAVID J. SHEEHAN IN SUPPORT OF  
THE TRUSTEE'S SECOND MOTION TO AFFIRM TRUSTEE'S DETERMINATIONS  
DENYING CLAIMS OF CLAIMANTS WHO INVESTED IN CERTAIN FEEDER  
FUNDS AND DID NOT HAVE BLMIS ACCOUNTS IN THEIR NAMES**

I, David J. Sheehan, Esq., of full age, hereby declare as follows:

1. I am a partner at the law firm of Baker & Hostetler LLP, counsel to Irving H. Picard, Esq., trustee ("Trustee") for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §78aaa *et seq.* ("SIPA"),<sup>1</sup> and for Bernard L. Madoff ("Madoff") (collectively, "Debtor").

2. As an attorney of record, I am fully familiar with this case and the facts set forth herein.

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<sup>1</sup> For convenience, subsequent references to SIPA will omit "15 U.S.C."

3. For purposes of the Trustee's second motion to affirm the Trustee's determinations denying claims of claimants who invested in certain feeder funds and did not have BLMIS accounts in their names (the "Second Feeder Fund Motion"), a list of the twelve Feeder Funds<sup>2</sup> associated with twelve BLMIS accounts is contained in Exhibit 1.

4. A list of the 73 claims of the Objecting Claimants is annexed hereto as Exhibit 2, listing their claim numbers and the docket numbers of their objections.

5. At my direction, the Trustee's consultants, AlixPartners, engaged in a review of the claims and other information provided by the Objecting Claimants in an effort to determine in which of the Feeder Funds the Objecting Claimants invested.

6. If an Objecting Claimant failed to provide a BLMIS account number of the Feeder Fund in which they invested, AlixPartners reviewed the claim image and any supplemental information attached to the claim form. The supplemental information may have included account statements, Feeder Fund prospectuses, letters from the Feeder Fund explaining the funds exposure to BLMIS, and Objecting Claimants' letters to the Trustee explaining their exposure to BLMIS.

7. After the claims and supplemental information were reviewed, Baker Hostetler attorneys and AlixPartners engaged in a detailed mapping exercise to determine the Feeder Funds, as well as any funds that did not directly invest with BLMIS, in which the Objecting Claimant may have invested.

8. On the attached Exhibit 1, the last column displays the number of claims by

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<sup>2</sup> Capitalized terms not otherwise defined in this Declaration have the same meaning as in the Second Feeder Fund Motion and the brief in support of it.

Objecting Claimants that Baker Hostetler and AlixPartners were able to correlate to the Feeder Fund accounts—that is, claims as to which objections to determinations were filed.

9. On the attached Exhibits 2 and 3, there is detailed information regarding the Objecting Claimants, their claims, objections and the Feeder Funds in which they may have invested. Through the mapping process described above, the Trustee was able to correlate the Objecting Claimants to the Feeder Funds listed therein.

10. Exhibit 2 provides a list of the Objecting Claimants that invested in the Feeder Funds identified in Exhibit 1 and that objected to the Trustee's determination of their claims. Exhibit 2 also identifies the Objecting Claimants' claim numbers where available, the docket numbers of the objections as filed with the Court, the lawyers representing the Objecting Claimants, the Feeder Funds in which the Objecting Claimants invested, and the Feeder Fund account numbers. Exhibit 3 provides additional information, identifying the date and result of the Trustee's claim determinations, as well as the dates that the objections were filed with the Court.

11. This Motion addresses objections related to 73 claims. They are claims which have been filed by claimants without accounts who invested in the Feeder Funds listed in Exhibit 1. The Trustee denied each claim that was mapped to a Feeder Fund Account other than certain of the claims filed by or on behalf of the Feeder Fund Parties themselves.

12. A review conducted by Baker Hostetler of the books and records of BLMIS did not reveal evidence of any payments by the Objecting Claimants directly to or from the Feeder Funds accounts at BLMIS, nor any other indicia of a direct financial relationship between BLMIS and the Objecting Claimants.

13. Attached hereto as Exhibit 4 is a true and correct copy of the customer claim filed with the Trustee by and on behalf of Alpha Prime Fund Limited, with all but selected exhibits

omitted.

14. Attached hereto as Exhibit 5 is a true and correct copy of the November 30, 2008 BLMIS account statement related to Alpha Prime Fund Limited, BLMIS Account Number 1FR097.

15. Attached hereto as Exhibit 6 is a true and correct copy of the account maintenance file related to Alpha Prime Fund Limited from the books and records of BLMIS.

16. Attached hereto as Exhibit 7 is a true and correct copy of the customer claim filed with the Trustee by Defender Limited, with all but selected exhibits omitted.

17. Attached hereto as Exhibit 8 is a true and correct copy of the November 30, 2008 BLMIS account statement for Defender Limited, BLMIS Account Number 1FR132.

18. Attached hereto as Exhibit 9 is a true and correct copy of the account maintenance file for Defender Limited from the books and records of BLMIS.

19. Attached hereto as Exhibit 10 is a true and correct copy of the November 30, 2008 BLMIS account statement for Harley International Fund Limited, BLMIS Account Number 1FN094.

20. Attached hereto as Exhibit 11 is a true and correct copy of the account maintenance file for BLMIS Account Number 1FN094, related to Harley International (Cayman) Limited, a/k/a Harley International Limited from the books and records of BLMIS.

21. Attached hereto as Exhibit 12 is a true and correct copy of the customer claim filed with the Trustee by and on behalf of Herald (Lux) (SICAV), with all but selected exhibits omitted.

22. Attached hereto as Exhibit 13 is a true and correct copy of the November 30, 2008 BLMIS account statement related to Herald (Lux), BLMIS Account Number 1FR135.

23. Attached hereto as Exhibit 14 is a true and correct copy of the customer claims as to BLMIS Account Number 1FR016 filed with the Trustee by Lagoon Investment Limited, subsidiary of Hermes International Fund Limited, with duplicates and all but selected exhibits omitted.

24. Attached hereto as Exhibit 15 is a true and correct copy of the November 30, 2008 BLMIS account statement for Lagoon Investment Limited, subsidiary of Hermes International Fund Limited, BLMIS Account Number 1FR016.

25. Attached hereto as Exhibit 16 is a true and correct copy of the account maintenance file for BLMIS Account Number 1FR016 related to Lagoon Investment Limited, subsidiary of Hermes International Fund Limited, from the books and records of BLMIS.

26. Attached hereto at Exhibit 17 is a true and correct copy of the customer claim filed with the Trustee by and on behalf of Luxembourg Investment Fund, with all but selected exhibits omitted.

27. Attached hereto as Exhibit 18 is a true and correct copy of the November 30, 2008 BLMIS account statement related to Luxembourg Investment Fund, BLMIS Account Number 1FR123.

28. Attached hereto as Exhibit 19 is a true and correct copy of the account maintenance file related to Luxembourg Investment Fund, from the books and records of BLMIS.

29. Attached hereto as Exhibit 20 is a true and correct copy of the customer claim filed with the Trustee by Optimal Strategic U.S. Equity Limited, with all but selected exhibits omitted.

30. Attached hereto as Exhibit 21 is a true and correct copy of the November 30, 2008

BLMIS account statement related to Optimal Multiadvisers Limited, BLMIS Account Number 1FR008.

31. Attached hereto as Exhibit 22 is a true and correct copy of the account maintenance file for BLMIS Account Number 1FR008 related to Optimal, from the books and records of BLMIS.

32. Attached hereto as Exhibit 23 is a true and correct copy of the customer claim filed with the Trustee by and on behalf of Senator Fund SPC, with all but selected exhibits omitted.

33. Attached hereto as Exhibit 24 is a true and correct copy of the November 30, 2008 BLMIS account statement related to Senator Fund SPC, BLMIS Account Number 1FR128.

34. Attached hereto as Exhibit 25 is a true and correct copy of the account maintenance file related to Senator Fund SPC from the books and records of BLMIS.

35. Attached hereto as Exhibit 26 is a true and correct copy of the customer claims filed with the Trustee by and on behalf of Thema International Fund plc, with all but selected exhibits omitted.

36. Attached hereto as Exhibit 27 is a true and correct copy of the November 30, 2008 BLMIS account statement related to Thema International Fund plc, BLMIS Account Number 1FN095.

37. Attached hereto as Exhibit 28 is a true and correct copy of the account maintenance file related to BLMIS Account Number 1FN095 from the books and records of BLMIS.

38. Attached hereto as Exhibit 29 are true and correct copies of the customer claims filed with the Trustee by Thybo Stable Fund Ltd., with all but selected exhibits omitted.

39. Attached hereto as Exhibit 30 is a true and correct copy of the November 30, 2008 BLMIS account statement for Thybo Stable Fund Ltd., BLMIS Account Number 1FR129.

40. Attached hereto as Exhibit 31 is a true and correct copy of the account maintenance file for Thybo Stable Fund Ltd., from the books and records of BLMIS

41. Attached hereto as Exhibit 32 are true and correct copies of the customer claims filed with the Trustee by Trotanoy Investment Company Limited, a subsidiary of Palmer PCC Limited, with all but selected exhibits omitted.

42. Attached hereto as Exhibit 33 is a true and correct copy of the November 30, 2008 BLMIS account statement for Trotanoy Investment Company Limited, a subsidiary of Palmer PCC Limited, BLMIS Account Number 1FR045.

43. Attached hereto as Exhibit 34 is a true and correct copy of the account maintenance file for Trotanoy Investment Company Limited, a subsidiary of Palmer PCC Limited, from the books and records of BLMIS.

44. Attached hereto as Exhibit 35 is the Confidential Private Placement Memorandum for Alpha Prime Fund Limited, dated August 2007.

45. Attached hereto as Exhibit 36 is the Offering Memorandum for Defender Limited, dated June 2008.

46. Attached hereto as Exhibit 37 is the Confidential Explanatory Memorandum for Harley International (Cayman) Limited, dated November 2006.

47. Attached hereto as Exhibit 38 is the Prospectus for Herald (Lux), dated March 2008.

48. Attached hereto as Exhibit 39 is the Prospectus for Hermes International Fund Limited, dated December 18, 2006.

49. Attached hereto as Exhibit 40 is the Sales Prospectus for Luxembourg Investment Fund, dated August 2005.

50. Attached hereto as Exhibit 41 is the Explanatory Memorandum for Optimal Multiadvisors, Ltd., dated October 2006.

51. Attached hereto as Exhibit 42 is the Offering Memorandum for Senator Fund SPC, dated July 2006.

52. Attached hereto as Exhibit 43 is the Prospectus for Thema International Fund plc, dated December 31, 2006.

53. Attached hereto as Exhibit 44 is the Prospectus for Thybo Stable Fund Ltd., dated October 2006.

54. Attached hereto as Exhibit 45 is the Cell Particulars for Trotanoy Investment Fund, a cell of Palmer PCC Limited, dated March 30, 2005.

55. Attached hereto as Exhibit 46 is the Principal Particulars for Palmer PCC Limited, dated March 30, 2005.

56. Attached hereto as Exhibit 47 is the Access International Advisors LLC Highlights for the Trotanoy Investment Fund, dated November 12, 2008.

57. Attached hereto as Exhibit 48 is the Cell Particulars for Trotanoy Investment Fund Ltd., dated December 23, 2005.

58. Attached hereto as Exhibit 49 is customer claim 014267 filed by Cheng Hye Cheah and Hau Yin To, investors in Hermes International Fund Limited.

59. Attached hereto as Exhibit 50 is "Trading Authorization Limited to Purchases and Sales of Securities and Options," for Defender Limited.

60. Attached hereto as Exhibit 51 is a true and correct copy of the published *Macaoura v. Northern Assurance Company Limited* decision as published.



61. Attached hereto as Exhibit 52 is a true and correct copy of the *Salomon v. Salomon & Co.* decision as published.

62. Attached hereto as Exhibit 53 is a true and correct copy of the 2008 version of the consolidated text of Section 276 of the Companies (Guernsey) Law.

63. Attached hereto as Exhibit 54 is a true and correct copy of the Luxembourg law of December 20th, 2002 relating to undertakings for collective investment.

64. Attached hereto as Exhibit 55 is a true and correct copy of the Luxembourg law of August 10th, 1915 concerning commercial companies.

65. Attached hereto as Exhibit 56 is a true and correct copy of the customer claim filed with the Trustee by Plaza Investments International Limited, with all but selected exhibits omitted.

66. Attached hereto as Exhibit 57 is a true and correct copy of the November 30, 2008 BLMIS account statement related to Plaza Investments International Limited, BLMIS Account Number 1FR002.

67. Attached hereto as Exhibit 58 is a true and correct copy of the account maintenance file for Plaza Investments International Limited from the books and records of BLMIS.

68. Attached hereto as Exhibit 59 is the Information Memorandum for Plaza Investments International Limited, dated December 1, 2004.

Pursuant to 28 U.S.C. § 1746, I hereby declare that the foregoing statements made by me are true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: New York, New York  
June 27, 2013

Respectfully submitted,

/s/ David J. Sheehan

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